

Commissioners of the Sinking Fund
of the
City of Louisville, Kentucky

LICENSE FEE REGULATIONS
(Initial Promulgation)

and

Ordinance 112, Series 1948

Ordinance 165, Series 1948



BEN J. BRUMLEVE
Secretary-Treasurer

City Hall Annex
Louisville, Kentucky

July, 1948

IMPORTANT

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July, 1948

Commissioners of the Sinking Fund
of the
City of Louisville, Kentucky

LICENSE FEE REGULATIONS
(Initial Provisions)

and
Ordinance No. 112, Series 1943
Ordinance No. 120, Series 1944

BEW J. BRUMLEY
Secretary-Treasurer

City Hall Annex
Louisville, Kentucky

July, 1943

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LICENSE FEE REGULATIONS

(Initial Promulgation)

PREFACE

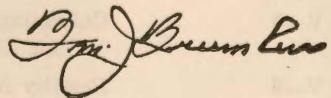
The Board of Aldermen of the City of Louisville have enacted two ordinances, Ordinance 112, Series 1948, and Ordinance 165, Series 1948, which impose a license fee for doing business within the City of Louisville, Kentucky.

Under these ordinances every person, association, corporation or other entity engaged in an occupation, trade, profession or other activity in the City shall pay into the Sinking Fund of the City an annual license fee for the privilege of engaging in said activities, which license fee shall be measured by one per centum (1%) of

- (a) All salaries, wages, commissions and other compensation earned by every person in the City for work done or services performed or rendered in the City; and
- (b) the net profits of all businesses, professions or other activities conducted in the City.

Under the authority of Section 6 of Ordinance 112, Series 1948, the Secretary-Treasurer of the Commissioners of the Sinking Fund is charged with the enforcement of the provisions of the ordinance, and is empowered to prescribe, adopt, promulgate and enforce rules and regulations relating to any matter or thing pertaining to the administration and enforcement of the provisions of the ordinance.

To that end this initial promulgation of the License Fee Regulations is respectfully submitted.



BEN J. BRUMLEVE,

Secretary-Treasurer

ARTICLE I — 1

Definitions

For the purpose of these regulations, the following terms shall have the definitions hereinafter given:

a. "Commissioners" — Commissioners of the Sinking Fund of the City of Louisville.

b. "Secretary-Treasurer" — Secretary-Treasurer of the Commissioners of the Sinking Fund of the City of Louisville.

c. "City" — City of Louisville, Kentucky.

d. "Business" — An enterprise, activity, profession, or undertaking of any nature conducted for gain or profit, whether conducted by an individual, co-partnership, association, or any other entity, but shall not include the usual activities of boards of trade, chambers of commerce, trade associations or unions, (or other associations performing the services usually performed by trade associations or unions); Community Chest funds or foundations; corporations or associations organized and operated exclusively for religious, charitable, scientific, literary, educational or civic purposes, or for the prevention of cruelty to children or animals, or clubs or fraternal organizations operated exclusively for social, literary, educational, or fraternal purposes, where no part of the earnings or income or receipts for such units, groups, or associations inures to the benefit of any private shareholder or individual.

e. "Association" — A partnership, limited partnership, or any other form of unincorporated enterprise, owned by two or more persons.

f. "Corporation" — A Corporation or joint stock association organized under the laws of the United States, the State of Kentucky, or any other State, territory, or foreign country or dependency.

g. "Employer" — An individual, co-partnership, association, corporation, governmental body or unit or administration or agency, or any other entity, who or that employs one or more persons on a salary, wage, commission or other compensation basis, regardless of whether such employer is engaged in business as above defined, or is excluded by the terms of said definition.

h. "Director of Finance" — The Director of the Department of Public Finance of the City of Louisville.

i. "Sales" — Net sales of merchandise or of service, or of both, computed by whatever method of accounting is authorized for federal income tax purposes.

j. "Sales within the City" — Shall be deemed to include sales of merchandise or service delivered to a customer or performed for a customer within the City from the licensee's place of business located in the City.

k. "Net Profits" — The net income from the operation of a business, or enterprise, after provision for all costs and expenses incurred in the conduct thereof, shall be the same as reported for federal income tax purposes excluding items exempted under this ordinance but without deduction of taxes based on income.

l. "Non-resident" — An individual, co-partnership, fiduciary, or association or other entity domiciled outside the City.

m. "Person" — Every natural person, co-partnership, fiduciary, association or corporation. Whenever the term "person" is used in any clause prescribing and imposing a penalty in the nature of a fine or imprisonment, the word, as applied to associations, shall mean the partners or members thereof and as applied to corporations, the officers and directors.

n. "Resident" — An individual, co-partnership, association, corporation, or other entity domiciled in the City.

o. "Licensee" — Any person required hereunder to file a return or to pay a license fee thereon under this Ordinance. The singular shall include the plural, and the masculine shall include the feminine and the neuter.

p. An "Employee" is any person who renders services to another for a financial consideration or its equivalent, under an express or implied contract, and who is under the control and direction of the latter; and shall include temporary, provisional, casual, or part-time employment.

ARTICLE I — 2

Commencement and Duration of Licenses

The license fee imposed by this ordinance is effective as to net profits earned or accruing on or after July 1, 1948 and payroll deductions must be made against all salaries, wages, commissions, bonuses and other compensation earned or accruing after that date.

The ordinance continues effective until June 30, 1950.

ARTICLE II — 1

Imposition of License Fee — Employees

Section 1 — Employees in General

The license fee is imposed on both residents and non-residents of the City of Louisville at the rate of one per cent (1%) of all salaries, wages, commissions and other compensations earned for work done or services performed or rendered in the City.

The following are subject to the license fee:

- a. Salaries, bonuses or incentive payments received by an individual, whether directly or through an agent and whether in cash or in property, for services rendered;
1. As an officer, agent or employee, or both of a corporation (including a corporation of the first or non-profit class), joint stock association or joint stock company;
2. As an officer, agent or employee (as distinguished from a partner or member) of a partnership, limited partnership, or any other form of unincorporated enterprise owned by one or more persons;
3. As an agent employee (as distinguished from the proprietor) of a business, trade or profession, conducted by an individual owner;
4. As an officer, agent or employee (whether elected or appointed, enlisted or commissioned) of a governmental administration, agency, arm, authority, board, body, branch, bureau, department, division, section or unit of the Commonwealth of Kentucky, or any of the political subdivisions thereof, or those of any other State or Commonwealth;
5. As an officer, agent or employee (whether elected or appointed, enlisted or commissioned) of a governmental administration, agency, arm, authority, board, body, branch, bureau, department, division, section or unit of the United States Government or of a corporation created and owned, or controlled by the United States Government or any of its agencies, or those of any foreign country or dependency.
6. As an officer, agent or employee of any other entity.
- b. Wages, bonuses, or incentive payments received by an individual, whether directly or through an agent and whether in cash or in property, for services rendered;

1. Whether based upon hourly, daily, weekly, semi-monthly, monthly, annual, unit of production or piece-work rates; and
2. Whether paid by an individual, co-partnership, association, corporation (including a corporation of the first or non-profit class), governmental administration, agency, arm, authority, board, body, branch, bureau, department, division, section or unit, or any other entity.
- c. Commissions received by a taxpayer, whether directly or through an agent and whether in cash or in property, for services rendered regardless of how computed or by whom paid. (If amounts received as a drawing account exceed the commissions earned the tax is payable on the amounts received.) If such commissions are included in the net earnings of a trade, business or profession regularly carried on by such individual and therefore subject to license fee under Article II—2 of these regulations, they shall not again be separately taxed.
- d. Fees, unless such fees are properly included as part of the net profits of a trade, business, profession or enterprise regularly carried on by said individual and such net profits are subject to tax under Article II—2 of these regulations.
 1. Fees paid to a director or officer of a corporation are subject to withholding under Article II—1 of this Ordinance as in the case of any other employee.
- e. Other compensation will be treated as follows:

1. Subject to the License Fee

- (a) Tips received by waiters and others.
Tips received are subject to the licensee fee and will be reported in the same manner as earnings of an independent contractor.
- (b) Vacation and/or Holiday Benefits.
Payments made to employees by an employer as vacation wages are subject.
- (c) Separation Payments.
Payments made to employees by an employer at the time of a voluntary or involuntary separation (dismissal) of the employee from the service of the employer, are to be regarded as subject to the license fee.

2. Not Subject to the License Fee

- (a) Old age or retirement payments.
Periodical payments, commonly recognized as old age or retirement pensions, made to persons retired from service after reaching a specified age or after a stated period of employment, are not subject to the license fee.
- (b) Disability, Sickness, Accident Benefits, and Unemployment Compensation.
Payments made to employees by an employer under a disability, sickness and accident plan, are not subject to the license fee. Unemployment Compensation payments by the Commonwealth of Kentucky, or any other agency are not subject.
- (c) Death Benefits.
Death benefits payable by an employer to the beneficiary of an employee or to his estate, whether payable in a single sum or otherwise, are not subject to the license fee.
- (d) Benefits arising under the Workmen's Compensation Act.
Amounts received by employees under the Workmen's Compensation Act as compensation for a disability sustained during the course of employment, together with any amount of damages received by suit or agreement on account of such disability, are not subject to the license fee.

3. Applicability of the Foregoing Regulations to Employees whose compensation is not wholly subject.

In the case of individuals whose compensation is earned for services performed both within and without the City of Louisville and who receive subject payments as set forth in the foregoing rules and regulations, they are subject to the license fee in the same proportion that services performed within the City of Louisville bear to their total employment time.

Section 2 — Specific Groups of Employees

a. Musicians and Entertainers

In the field of professional musicians there has arisen a practice peculiar to the engagement of musicians exclusively through a so-called "contractor". The practice which arose by prescription by the American Federation of Musicians and of local union regulations, enables the purchaser of music to deal with only one of the number of musicians required for a particular occasion.

1. **Contractor.** The term contractor means that individual musician through whom the purchaser and the musician negotiates the contract of service and the performance thereof.

The contractor may or may not perform actual musical service under a contract which he has negotiated.

2. **Purchase of Music.** The person, partnership, organization or association for whom or which the musical services are to be performed or furnished and who exercises an employer's control over the conduct of the musicians. For example, hotels, cafes, taprooms, restaurants, theaters, clubs, radio stations, and radio sponsors.
3. **Name Bands or Orchestras.** A name band or orchestra is one which is identified or known by a name and which holds itself out to the public as a permanent organization, and in addition thereto has either (a) a fixed personnel or (b) the individual member musician has contracted for his services with the leader or the owner of the band at a fixed salary by term or by individual engagement, and over whom the purchaser has no direct control.
4. When a contract for the purchase of music has been executed between a purchaser and a contractor, the musician shall be deemed to be the employee of the purchaser, except in the case of name bands, in which event the musicians shall be deemed employees of the leader or owner of the name band.

The purchaser, and in the case of a name band, the leader or owner thereof, shall be the person responsible for withholding the license fee from the wages paid to the musicians, and the remittal thereof to the Secretary-Treasurer.

5. **Entertainers other than Musicians.** An entertainer other than a musician is usually engaged by a purchaser through a booking agent. The booking agent, once the contract of employment has been executed, does not exercise an employer's control over the entertainer.

The owner of a club, cafe, taproom, theater or any place which furnishes entertainment to the public or to its patrons, shall be deemed the person liable as an employer of entertainers. Such employer must deduct the license fee from the compensation paid to the entertainer and remit the same to the Secretary-Treasurer.

b. Insurance Agents

1. General

Individuals engaged in the sale of insurance may be either employees or independent contractors.

- (a) Where the individual is subject to the direct control of another as to the manner of his conduct and is paid a fixed fee, he is considered an employee and the amount of the license shall be withheld at the source.
- (b) Where the individual is not under the direct control of another and may conduct the sale as he sees fit, receiving his payment in the form of commission from the sale, he is considered an independent contractor and shall file his own return and make payment as an independent contractor.
- (c) Where an individual receives both a fixed salary and additional compensation in the form of commissions, the license on that part of the compensation received as salary shall be deducted at the source, and the license on that part represented as commissions shall be subject of an individual return and additional payment.

2. Commissions Subject to License Fee

- (a) In determining whether the commissions payable by reason of the selling of any policy by an agent have resulted from work done or services performed or rendered in Louisville, the test shall be the residence of the insured at the time of issuance of the policy, rather than the actual place of solicitation, except where the solicitation is in the City of Louisville and the agent's established place of business is within the City, the commission is subject to the license fee regardless of the residence of the insured.
- (b) If an Agent has an office outside the City of Louisville as well as office of his own within the City, the commission on policies sold to non-residents, if handled through the outside office, are not subject to a license fee, since under such circumstances, they are not earnings or profits of an independent Louisville business.

3. Renewal Commissions

- (a) Renewal commissions are deemed earned in the year payment is received.
- (b) Renewal commissions on business written by an agent in other cities, are deemed not subject. This ruling applies only to those cases in which the agent is entitled to the renewal commissions, regardless of the amount of insurance written by him in the succeeding years.
- (c) Renewal commissions payable on policies of residents of Louisville paid or payable to an agent formerly under contract at Louisville, but who at the time the same are paid, or shall become payable, resides and is under contract in another city, are deemed not subject.
- (d) The above rulings are applicable to renewal commissions paid or payable on contracts of insurance negotiated or delivered to the assured prior to July 1, 1948.
- (e) License Fees due on consideration received for assignment of renewal commissions:
 - (1) The consideration received by the assignor of renewal commissions from a bona fide assignment of the same for fair value, is deemed subject in the year in which it was received.
 - (2) If the sale is made to the withholding agent of the assignor, the consideration received or paid is subject to withholding.

- (3) When the consideration paid has been included as earnings subject to the license fee in the year of the sale, the renewal commissions due thereafter are not subject to the fee. Any difference between the sale price and the sum total of the renewal commissions is deemed a return on the investment made by the purchaser or assignee.
- (4) If the assignment does not meet the test set forth above, the renewal commissions are subject to the individual license fee or withholding, as the case may be, as if no such assignment had been made.

4. Group Insurance Commissions

Commissions paid on the sale of contracts of group insurance are subject if the group is located within the City of Louisville as a unit without regard to the residence of the writing agent.

5. Bonuses and Incentive Payments Subject to License Fees

That proportionate part of all bonuses and incentive payments received by an Agent, which bears the same ratio to the total amount of bonuses and incentive payments received by him, as the amount of commissions received by him on policies sold to residents, bears to the total amount of commissions received by him on all policies sold, to both residents and non-residents, is subject to the license fee.

6. Advances and Drawing Accounts

There are two (2) main types of advances and drawing account payments:

- (a) Those which impose upon the agent a written obligation to repay if they are not in fact earned.
- (b) Those which (though offset by commissions as earned) cannot be recovered at law even though the agent fails to produce enough business to justify them.

The first of these 2 types of advance and drawing account payments is in the nature of a loan and accordingly is never subject to a license fee. All commissions or bonuses applied toward the repayment of these types of advances and drawing accounts are subject in accordance with the rules set forth above.

The second type of advance and drawing account payment is subject compensation when received, to the extent that it exceeds compensation earned since July 1, 1948, subject to the following jurisdictional rules:

- (a) If the agent is still in his first contract year, at the beginning of the calendar year, the portion of the advance or drawing account payment to be considered subject to Louisville license, shall be computed on the basis of the ratio of his Louisville commissions paid and credited, to total commissions paid and credited. In any month in which he fails to earn any commissions, the ratio applied shall be the one determined for the last month in which commissions were credited to him. If he has never earned any commissions (as may be the case in his first contract month) the entire amount of his advance or drawing account payment shall be considered subject income.
- (b) If the agent has been under contract for at least one full year, at the beginning of any calendar year, the basis for determining the proportion of his advance or drawing account payments which is to be considered subject to Louisville license each month during the year, shall be the ratio of aggregate Louisville commissions paid or credited to him during the entire preceding year, to aggregate of all commissions paid or credited during the entire preceding year.

- (c) At the end of each calendar year, each company shall re-determine, in the case of each full-time Agent, compensated by advances or drawing account payments, the ratio of aggregate Louisville commissions paid or credited during the entire year, to aggregate of all commissions paid or credited during that period and shall make an appropriate adjustment, plus or minus, in its return of license fee withheld for the first quarter of the next succeeding year.

7. Collection of License Fee at Source

It is the duty of all companies doing business in the City of Louisville (or General Agents in the cases of agents whose contracts are with a General Agent alone and to whom payment is made by General Agent out of funds of General Agent) to deduct or withhold monthly or more often the amount of license fee due on all compensation paid to Agents who are considered employees.

In computing the amount of compensation of any agent which should be subject to the fee it is obliged to withhold, the employer withholding the fee shall deduct each month an amount equal to one-twelfth (1/12) of the amount stated in writing by the agent to be his estimate of the aggregate of business expenses which should be incurred by him during the current year in earning the subject compensation which he will receive from the employer.

c. Railroad and Train Service Employees

It having been found that the peculiar nature of services performed by railroad train and engine service employees working on trains passing through Louisville, or on runs which begin or terminate in Louisville, as well as the unusual bases of compensation payable to such employees, make it impracticable to apportion earnings in accordance with Article II — 1 of the City of Louisville License Fee Regulations, the following rules of apportionment determined on a daily basis, are prescribed for such employees.

1. Services performed on trains passing through the City:

The services performed within the City are merely incidental to the services performed outside the City and the employee shall not be deemed engaged in a subject activity within the City.

2. Services performed on trains which either begin or terminate in the City:

Where such service is **preponderantly outside** the City the employee shall not be deemed to be engaged in a subject activity within the City.

In all other cases, where train runs are operated both within and without the boundaries of the City, the compensation earned within the City shall be determined on the basis of mileage operated within the City, computed in accordance with the basic mileage rate of the particular individual.

3. (a) Railroad employees who perform all of their work within the limits of the City of Louisville, are subject upon their entire gross earnings.

- (b) Where such employees serve both within and without the City of Louisville, the license fee shall be measured by the proportionate share of their gross earnings representing service within the city.

- (c) Where the work of such employees is **preponderantly** outside the city, the employee shall not be deemed to be engaged in a service within the city.

4. Officers and supervisory personnel whose headquarters is in the city and whose occupations regularly require part of the work to be done outside the city, shall be allowed to prorate the compensation on which a license is due, for that part of the work which is done within the city. Where the headquarters of such officers and supervisory personnel is outside the city, such employees shall not

be required to pay a license fee. There shall be no proration of compensation for employees headquartered within the city where travel is only incidentally connected with the occupation. Individual cases of claimed exemption under this paragraph shall be subject to review by the Secretary-Treasurer.

5. No license shall be due on compensation of railroad employees for sick leaves.

6. The fact that any particular railroad employee affected by the foregoing regulations may be engaged in interstate commerce, is not relevant in determining the subject ability of compensation received by him.

d. Motor Freight and Commercial Transportation other than Railroads

It having been found that the peculiar nature of services performed by employees of motor freight transportation companies, or other commercial transportation companies in similarly situated positions, who work on vehicles passing through Louisville, or on runs which begin and terminate in Louisville, makes it impracticable to apportion the earnings in accordance with Article II—1 of the City of Louisville License Fee Regulations, and since the circumstances involved in the employment of such employees are substantially analogous to those of railroad train and engine service employees, the set regulation applicable thereto shall apply to employees in the aforementioned category.

e. Federal, State or Municipal Employees

1. Compensation received from the Federal Government for services performed after July 1, 1948, within any Federal reservation situated within the geographical limits of Louisville, title to which is in the Federal Government, is subject income, even though exclusive jurisdiction thereof was granted to the Federal Government by the Commonwealth of Kentucky and the City of Louisville.

2. Compensation received from State, County and Municipal governmental agencies is subject to the provisions of the ordinance.

f. Real Estate Salesmen and Brokers

1. Real Estate salesmen or brokers who are engaged in the business as employees rather than as independent contractors, are not required to file a return for the commissions earned by them. The employer is required to deduct the fee from the commissions earned and remit the same to the Secretary-Treasurer.

2. Real estate salesmen or brokers acting as independent contractors are subject to a license fee on their net profits in accordance with the rules and regulations therein pertinent.

3. Real Estate Appraisers. Compensation paid to a real estate committee and/or to a mortgage loan committee by building and loan associations, is income subject to withholding by the association.

Employees of trust companies, who are employed occasionally by the company as real estate appraisers in addition to their regular employment, are deemed not to be engaged in a separate activity. The fee on compensation received for such services shall be withheld by the company and remitted by it to the Secretary-Treasurer together with any other salary received by employees.

g. Tailors

Tailors who receive work to perform in their own shops for a specified amount to be paid for each garment, are independent contractors.

h. Nurses

1. A registered nurse (except as provided below) is in the same status as any other professional person and is required to file a return upon her net profits. She

may deduct the actual expenses incurred from the earning of her fees. Cost of uniforms, however, is not a deductible item. Deductible items are such things as laundering of uniforms, registration fees, telephone expenses and transportation.

2. A registered nurse regularly employed by a hospital, institution, business entity or individual is subject to the withholding provisions of the ordinance.

i. Executives and Directors

An officer or director of a corporation performing services outside of Louisville except for occasional visits to the Louisville office to examine correspondence, etc. is not subject to the license fee. Where an organization meets in Louisville, and part of the work required as officer or director of such organization is done by him in Louisville, his compensation is subject in the ratio that those duties bear to his total duties.

j. Auditors

Where an auditor travels several times a year from his main office to the Louisville office to make audits of records in that office, each audit requiring several days work, the remainder of his time being spent in other cities, where such conduct is an established procedure, the license fee must be withheld on a pro-rata basis.

k. Miscellaneous

1. Where compensation is received (paid) in property, its fair market value, at the time of receipt, shall be subject to a license fee and/or to withholding (deduction of fee at source). Board and lodging and similar items shall be included in earnings at their fair market value, where such board and lodging is considered part of the compensation paid. However, the value accepted for the purpose of the State and Federal payroll taxes may be accepted by the Secretary-Treasurer.

2. In the case of employees whose duties require them for the convenience of the employer to live at their place of employment, board and lodging shall not be considered as wages or compensation earned.

3. In the case of employees who incur and pay expenses directly connected with the performance of their duties or services and for which no reimbursement is made by the employer, the reasonable actual expenses incurred and paid in earning the compensation may be deducted in computing the amount subject to the license fee. To be allowed, however, such expenses must also be recognized as deductions by the Federal and State authorities for payroll tax purposes and the Federal authorities for income tax purposes.

Such items as personal, family or living expenses, expenses of commuting to and from work, old age benefits taxes, deductions for group insurance, hospitalization, pension plans, etc. are not deductible as expenses directly connected with the performance of service.

l. Domestic Servants

Domestic servants employed in private homes are not subject to the provisions of this Ordinance.

ARTICLE II — 2

Imposition of License Fee — Net Business Profits

Section 1. Subject Business Entities

a. In the case of an individual, partnership, association, corporation, fiduciary or other entity engaged in the conduct, operation or prosecution of any business, profession, or other enterprise, there is imposed an annual license fee of one per cent (1%) of the net profits (earned or accruing on and after July 1, 1948) of such business, profession, or other enterprise, if, and to the extent, conducted in or derived from activity in Louisville.

b. 1. A business entity within the meaning of Sections 1 and 2 of the ordinance which has a branch or branches, office or offices and/or store or stores, warehouse, or other place or places in which the entity's business is transacted, located in the City of Louisville, shall be considered to be conducting, operating, prosecuting or carrying on a trade, business, profession, enterprise, undertaking or other activity to the full extent of the sum total of all transactions, originating or consummated in, by or through such Louisville branch, office, store, warehouse or other place of business, including (a) billings made on such transactions, or (b) services rendered, or (c) shipments made, or (d) goods, chattels, merchandise, etc., sold, or (e) commissions, fees or other remuneration or payments earned, as determined by paragraph d below.

2. The absence of a branch, office, store, warehouse or other permanent place of business within Louisville shall not exempt or render non-licensable the net profits of any trade, business, profession, enterprise, undertaking or other activity on which a license fee is imposed by this Ordinance.

c. In the case of partnership, association, or other unincorporated business owned by one or more persons, the license fee, generally, shall be upon said partnership, association, or business enterprise as an entity and not ordinarily upon the partners or members thereof.

d. In determining the proportion or amount of the subject net profits of a business entity doing business within and without the City of Louisville, such business entity may use and apply the Business Allocation-Percentage formula set forth in Section 1, sub-sections (a) 1, 2 and 3 of the Ordinance. Where the amount of net profits earned within the City of Louisville are readily determinable from the records of the business entity the amount so determined may be used, subject to the approval of the Secretary-Treasurer.

For explanation of Formula, see paragraph e. below.

e. Business Allocation Percentage

1. The licensee may use the formula set forth in Section 1 of the Ordinance to compute the percentage of their entire net profits (derived from activities both within and outside the City of Louisville) which is subject under the Ordinance, and to determine the license fee payable to the City of Louisville thereunder.

If the license payer was doing business in Louisville during such period, the business allocation percentage shall be computed on the basis of such of the two following factors as may be applicable to the particular business activity:

- (a) Business receipts within and without Louisville, and
- (b) Payrolls within and without Louisville.

"Business receipts" as used in (a), means the sum total of gross receipts from sales plus gross credit or charges for work done and performed or services rendered.

"Payrolls", as used in (b), means the total wages, salaries and other personal service compensation exclusive of compensation of general executive officers.

The business allocation percentage is computed by determining the percentages (a) which Louisville business receipts (see paragraph 4 below) bear to licensee's entire business receipts wheresoever derived (including those derived from Louisville); and (b) which payrolls paid by licensee within Louisville bear to licensee's entire payroll wheresoever paid (including Louisville payrolls); adding together the two percentages so arrived at, and dividing the total by two.

However, if one of the factors (receipts or payrolls) is missing, the remaining percentage is the business allocation percentage. A factor is not to be deemed missing merely because the expenditures of the licensee for payrolls, or the gross

receipts of the licensee, are found to be situated, incurred or received either entirely within or entirely without, the City of Louisville.

Example:

Corporation having places of business in Louisville, Detroit and Indianapolis.

Louisville business receipts \$15,000,000. All business receipts \$75,000. Percentage: 20%.

Louisville payroll \$6,000. All payroll \$20,000. Percentage: 30%.

Business allocation percentage:

$$20\% \text{ plus } 30\% = 25\%$$

2. After determining such business allocation percentage, the License fee shall be determined by applying that percentage to the entire net profits of the license payer wherever derived, (thus arriving at the subject net profit), and computing 1% of the resultant subject net profit.

3. In case it shall appear to the Secretary-Treasurer that any agreement, understanding or arrangement exists between the license payer and any other person, firm or corporation, whereby the activity, business, income or capital of the license payer is improperly or inaccurately reflected, the Secretary-Treasurer may adjust items of income, deductions and capital, in computing any allocation percentage, provided any income directly traceable thereto is also excluded from entire net income, so as equitably to determine the license fee.

4. Explanation of Business Receipts Factor

The percentage of the license payer's business receipts within Louisville is determined by (a) ascertaining the taxpayer's business receipts within Louisville during the period covered by the report and (b) dividing the sum of such business receipts by the license payer's total business receipts within and without Louisville during such period.

Receipts from the following are allocable to Louisville.

1. Sales of the licensee's tangible personal property:

(a) located in Louisville at the time of the receipt of or appropriation to the orders irrespective of where the orders were received or accepted;

(b) not located, at the time of the receipt of or appropriation to the orders, at any permanent or continuous place of business maintained by the license payer outside Louisville, where the orders were received or accepted in Louisville;

2. Work done and performed or services rendered in Louisville (see e, 5 below).

3. Rentals from property situated in Louisville where the rental of such property is a business activity.

4. All other business receipts earned in Louisville.

All receipts of the period covered by the report (computed on the cash or accrual basis, in accordance with the method of accounting used in the computation of the license payer's entire net income) must be taken into account.

5. Compensation for Work Done and Performed or Services Rendered

(a) The term "Compensation", as used in this section of the Ordinance, includes not only payment in cash or property, but the gross credits to or charges by the licensee, under its normal and usual accounting practices, for the performance of work or services. For example, a plant, factory or other establishment in Louisville, which processes material or manufactures parts for other plants or factories owned

by the licensee, and which may receive credit for the performance of such service only by bookkeeping entries, is chargeable under this section with the gross amount of such entries in applying the formula discussed hereunder. Furthermore, such bookkeeping entries are to be considered in lieu of cash or property payment in determining the net profits of any license payer under this Ordinance even though the business allocation percentage formula may not be used by or be applicable to the licensee. Provided, however, that whenever such gross credits or charges are included in computing the net profits of any licensee who or which pays a license fee thereon under this Ordinance, the same licensee shall not be twice subject in the same fee period by the separate imposition of a fee upon such gross credits or charges.

(b) Compensation and other receipts from work done or services performed within Louisville are allocable to Louisville and subject under the Ordinance. All amounts so received, credited or charged by licensee in payment for such work or services are so allocable, irrespective of whether done or performed by employees or agents of licensee, by subcontractors, or by any other persons. It is immaterial where such amounts were payable or where they were received.

Commissions or fees received by the licensee are allocated to Louisville if the services for which the commissions were paid were performed in Louisville. If the license payer's services for which commissions or fees were paid were performed for the license payer by salesmen or other agents or employees attached to or working out of a Louisville place of business of the licensee, the licensee's services will be deemed to have been performed in Louisville.

Example:

The licensee is a Louisville sales agent of a Chicago manufacturer and receives in Louisville an order from a Cleveland customer. The order is forwarded to the manufacturer which accepts it and fills it by shipment direct to the customer. The licensee's commission is earned in and allocable to Louisville.

Where a lump sum is received by the licensee in payment for services within and without Louisville, the amount attributable to services within Louisville is to be determined on the basis of the relative values of, or amounts of time spent in the performance of, such services within and without Louisville, or by some other reasonable method approved by the Secretary-Treasurer. Full details must be submitted with the licensee's report.

(c) Other Business Receipts.

All business receipts earned by the Louisville licensee within Louisville are allocable to Louisville. Business receipts are not considered to have been earned by the licensee in Louisville solely by reason of the fact that they were payable in or actually received in Louisville.

Receipts for sales of capital assets (property not held by the licensee for sale to customers in the regular course of business) are not business receipts. Receipts from the sale of real property held by the licensee as a dealer for sale to customers in the regular course of business are business receipts and are allocable to Louisville if the real property was situated in Louisville. Receipts from sales of intangibles included in business capital, held by the licensee as a dealer for sale to customers in the regular course of business, are business receipts and are allocable to Louisville if the sales were made in Louisville or through a regular place of business of the licensee in Louisville.

6. Payroll Factor

(a) The percentage of the license payer's payroll allocable to Louisville is determined by dividing the wages, salaries and other personal service compensation of the licensee's employees (except general executive officers, as defined in

paragraph (c) below) within Louisville during the period covered by the report, by the total amount of compensation of all licensee's employees (except general executive officers) during such period.

Wages, salaries and other compensation are computed on the cash or accrual basis in accordance with the method of accounting used in the computation of the entire net income of the licensee.

(b) Employees within Louisville include all employees regularly connected with or working out of a place of business maintained by the licensee in Louisville, irrespective of where the services of such employee were performed. However, if the licensee establishes to the satisfaction of the Secretary-Treasurer that, because of the fact that a substantial part of its payroll was paid to employees attached to a Louisville place of business who performed a substantial part of their services outside Louisville, the computation of the payroll factor according to the general rule stated above would not produce an equitable result, then the Secretary-Treasurer may, in his discretion, permit the payroll factor to be computed on the basis of the amount of compensation paid for services rendered within and without the City. On the other hand, wherever it appears that because a substantial part of the licensee's payroll was paid to employees attached to places of business outside Louisville who performed a substantial part of their services within Louisville, the computation of the payroll factor according to the general rule would not properly reflect the amount of the licensee's business done within Louisville by its employees, the Secretary-Treasurer may require the payroll factor to be computed on the basis of the amount of compensation paid for services performed within and without the City. In any such case, where an employee performed services both within and without Louisville, the amount treated as compensation for services performed within Louisville shall be deemed to be (1) in the case of an employee whose compensation depends directly on the volume of business secured by him, such as a salesman on a commission basis, the amount received by him for the business attributable to his efforts within Louisville; (2) in the case of an employee whose compensation depends on other results achieved, the proportion of the total compensation which the value of his services within Louisville bears to the value of all his services; and (3) in the case of an employee compensated on a time basis, the proportion of the total amount received by him which the working time employed in Louisville bears to the total working time.

(c) General Executive Officers.

Personal service compensation paid to general executive officers of the licensee for acting as such should not be included in the computation of the payroll factor.

General executive officers include the chairman, president, vice-president, secretary, treasurer, assistant treasurer, comptroller, director and any other officer charged with and performing general executive duties of the corporation. An executive officer whose duties or services are primarily restricted to one place of business of the licensee, whether within or without Louisville, is not a general executive officer for the purpose of these regulations.

In the case of unincorporated entities, an executive officer shall be deemed to be a partner, co-owner, proprietor or other active participant in the profit of the enterprise.

7. Adjustment of Business Allocation Percentage Formula

Generally, the formula will result in a fair apportionment of the license payer's net profits within and without Louisville. However, due to the peculiar circumstances of certain businesses, the formula may work a hardship in some cases or result in a license fee evasion in others, thus not do justice to the license payer or the City. Accordingly, in such cases, the Board of Review, created by Section 1,

sub-section (e), of the Ordinance, in its discretion, may substitute factors calculated to bring about a fair and proper allocation in any case where the license payer has adopted the use of the business allocation percentage formula.

The jurisdiction of the Board of Review to make such substitution may be invoked by either the license payer or the Secretary-Treasurer. Application shall be made to the Board for this purpose: (a) by the license payer, within twenty (20) days after the filing of its return or report; and (b) by the Secretary-Treasurer, within twenty (20) days after receiving such return or report. Application shall be in writing, shall state the specific grounds upon which the substitution is requested and the relief sought to be obtained. A copy thereof shall be served at the time of filing upon the license payer or the Secretary-Treasurer, as the case may be. No specific form need be followed in making such application.

Section 2. Other Subject Activities

a. Income Received from Real Estate

The income received from the operation of real estate by persons, trust companies or real estate agents, for or on behalf of persons (or estates) are subject to the license fee imposed by this Ordinance, where such operation falls within the classes hereinafter described.

1. Loft Buildings, Apartment Hotels, Hotel Buildings, Office Buildings and Similar Structures.

The operation of these types of buildings constitutes a subject activity, and the income thereof is subject to the fee imposed by the Ordinance.

2. Apartment Houses

(a) Where the apartment house is more than three stories in height, the operation of this type of building is considered a subject activity, the income of which is subject to the fee imposed by the Ordinance.

(b) Where such an apartment house is not more than three stories in height it will be considered as in the class of single dwellings, the profits of which may or may not be subject, depending upon the factors set forth in the ruling pertaining thereto.

3. Single Dwellings, Duplex Apartments, Apartment Houses of Three Stories or Less.

As to this type of real estate the income derived therefrom is considered subject when the operation thereof is so extended as to constitute an "activity" within the meaning of the Ordinance.

As an aid in determining whether such operation constitutes an activity the following information is pertinent and helpful:

(a) The number of properties of this type operated by the person (if the person is a trust company or real estate agent operating the same for others, the total number of properties operated by such trust company or real estate agent for each trust estate or separate client will be considered separately).

(b) The employment of labor in and about the operation of said property or properties. The term "labor" is intended to apply to janitor service, maid service, regular maintenance service, supervisory service, whether performed by the owner, his agents or employees. The aforementioned services are to be distinguished from services performed by real estate agents acting only and exclusively as rent collectors or in procuring tenants, and performing no other services in connection with the particular real estate involved.

(c) The ratio of income from the property or properties to all other income of the owner or person for whom said property or properties is being operated.

(d) The above factors need not all be present in any one instance because of the great variety of cases which may occur from this type of activity. They are suggested as a basis for a ruling in an individual case rather than adopted as a complete regulation.

4. When any property falls within the classifications above given, the manner of its acquisition, i. e., purchase, gift, inheritance, fiduciary, or as fiduciary mortgagee in possession, etc., does not affect the subjectability of the income derived therefrom.

5. Where the property is located within the City limits the residence of the beneficiary is immaterial.

If, however, the said property is situated outside the City of Louisville and the operation of such business was not subject to the City of Louisville license fee, then the operation of such business by a trustee, title to which was acquired by foreclosure, would be deemed not subject to the City license.

b. Trusts

Whenever a trust estate is engaged in an enterprise, activity or business which is productive of income, said income shall be considered subject to the license fee.

c. Miscellaneous

1. Where a person engages in the buying and selling of stocks, bonds and other types of securities, and such transactions are not isolated and few, but are extended so as to constitute an activity, the net profits therefrom are subject to the license fee.

2. Fiduciaries

(a) A fiduciary is a person who holds in trust, property, monies or properties, to which another has a beneficial title or interest, or who receives and controls income for another person or persons.

(b) Monies received by a fiduciary is subject income, where a fiduciary is regularly engaged in a business or profession as a fiduciary, or, is engaged in a business or profession commonly regarded as being incidental or collateral thereto, for example, an attorney-at-law, real estate agent, etc.; or if such commissions or fees represent a substantial portion of the earnings or income of the fiduciary; or, when the administration of the trust requires a substantial portion of the fiduciary's available working time.

3. Independent Contractor

An independent contractor is a person who, while performing services for another, is not under the direction and control of such other person, as to the result to be accomplished by the work and as to the details and means by which that result is accomplished, such as authors, professional men, seamstresses, laundresses, tailors, registered nurses.

The income received by such persons is subject to this license fee.

d. Extraordinary Cases

1. It is not the purpose of these regulations to envoke a rigid rule which must be followed in all cases.

2. Certain business entities because of the peculiarity of their situation or the difficulty of obtaining the necessary accounting information may find it difficult or even impossible to follow the foregoing rules in determining what part of their net profits is allocable to the City of Louisville.

3. Other business entities may find a more feasible method of determining their license fee and these will be taken into consideration by the Secretary-Treasurer when submitted to him, and allowed if deemed fair and equitable.
4. An example of the above is the allowance of the suggested regulations submitted by the Retail Merchants Association which are quoted as they were submitted, without change:

"For the purpose of determining the volume of sales within the city as defined in Section II of Ordinance 112, Series 1948, a retail merchant may employ one of the following methods for the allocation of sales:

1. Determining the relation in dollar volume between the accounts of customers resident within the limits of the city of Louisville to those resident without the limits of the city of Louisville, the percentage factor so determined to be applied to the total volume of business done by the retail merchant, or

2. Determining the relationship to total dollar volume of deliveries made within the limits of the city of Louisville to those made without the limits of the city of Louisville. When based on this method, the volume of deliveries made outside of the city limits in relation to the total store business shall constitute the percentage factor to be employed against the annual volume of business for the purpose of determining the tax payable.

The Secretary-Treasurer of the Commissioners of the Sinking Fund may require a retail merchant to employ either of the alternate methods specified above if, in his opinion, the method selected by the retail merchant does not reasonably reflect the true nature of the business done within and without the city by such retail merchant.

In the case of the employment of method 1 by a retail merchant, a sampling of accounts for the purpose of establishing the percentage factor shall be made for no less than 50 percent of the months subject to use in determining the Business Privilege Tax.

In the case of the employment of method 2, in determining the percentage factor to be applied, there shall be employed no less than 10 percent of the business days during the period subject to use in the establishment of the Business Privilege Tax. The days to be employed in sampling deliveries under this method shall be fairly spaced over the period of time involved.

Upon completion of each sampling under either of the foregoing methods, a report shall be rendered by the retail merchant to the Secretary-Treasurer of the Commissioners of the Sinking Fund showing the results of such sampling. In rendering its annual report to the Commissioners, the percentage factor determined by the average of all such reports shall be employed. The Secretary-Treasurer shall have the authority to require reports of this character to be made upon forms established by him."

ARTICLE II — 3

On What Earnings or Net Profits License Fee First Levied

- a. The license fee referred to in Article II — 1 shall first be levied, collected and paid with respect to the salaries, wages, bonuses, incentive payments, commissions, fees and/or other compensation earned during the period July 1, 1948 to December 31, 1948.

- b. The tax referred to in Article II — 2 with respect to the net profits of trades, businesses, professions, enterprises, undertakings and other activities shall first be levied, collected and paid with respect to such net profits for the period July 1, 1948 to December 31, 1948. But see Article II — 4 for fiscal year returns.

c. Every person conducting a business as defined in this ordinance shall obtain a license from the Secretary-Treasurer, before the commencement of such business, the fee for which shall be \$10.00. Said fee shall be credited upon the payment of the license fee when it regularly becomes due. Provided, however, that where such person has heretofore obtained a license from the Secretary-Treasurer for the conduct of such business, this provision does not apply.

ARTICLE II — 4

Fiscal Years

Where the fiscal year of a trade, business, profession, enterprise, undertaking and/or other activity differs from the calendar year, the license fee shall be applicable to the net profits of the fiscal year, but for the first fiscal year with respect to only such portion thereof, as was earned subsequent to the last day of June, 1948.

A fiscal year will be recognized only if it ends on the last day of some calendar month, and has been or is being recognized by the Commissioner of Internal Revenue for the purpose of the Federal Income Tax.

Where the income cannot be accurately ascertained monthly or for the period beginning July 1, 1948, and ending with the last day of a fiscal year or fiscal period ending in 1948, and it becomes necessary to prorate the earnings of the fiscal period or fiscal year, proration shall be made on the basis of a fraction whose numerator shall be the number of months elapsed since June 30, 1948, and whose denominator is the total number of months in the fiscal period or fiscal year.

ARTICLE II — 5

Net Business Profits

In amplification of the definition contained in Article I — k. of these regulations, but not in limitation thereof, the following additional information and requirements respecting net business profits are furnished:

a. Where necessary to properly reflect income, inventories must be used. The basis of pricing used for the purpose of the Federal Income Tax must in each instance be used.

b. Where the books and records are kept on an "accrual basis", "long-term contract basis" or "installment basis" and/or the "accrual basis", "long-term contract basis" or "installment basis" is used in the filing of Federal Income Tax Returns such basis must be used for the purpose of this license fee.

c. If the return is made on a "cash basis", "Gross Profit" shall include receipts from commissions, fees and interest, as well as the gross profit or loss from sales of merchandise, chattels, goods, wares, securities, notes, choses-in-action and services.

d. If the return is made on an "accrual basis," Gross Profit shall include (1) commissions, fees and interest earned, plus (2) the gross profit or loss from sales of merchandise, chattels, goods, wares, securities, notes, choses-in-action and services computed as follows:

Gross Sales or Billings	
Less: Returns and Allowances Actually Made	_____
Net Sales or Billings	(A) _____

Opening Inventory

Purchases

Manufacturing Costs (Labor, Overhead, Etc. —
Where Applicable)

Total

Less: Closing Inventory

Cost of Goods Sold

(B)

Gross Profit (or Loss)

(A)-(B)

From Gross Profit there shall be subtracted allowable expenses to arrive at the net profits subject to the license fee.

f. All ordinary and necessary expenses of doing business, including reasonable compensation paid employees, shall be allowed (but no deduction may be claimed for "salary" or withdrawals of a sole proprietor or of the partners or members of an unincorporated business or enterprise).

g. If not claimed as part of the cost of goods sold, or elsewhere in the return filed, there may be claimed and allowed, a reasonable deduction for depreciation (exhaustion, wear and tear) of property used in the trade or business, and for depletion, or for both, but the amount may not exceed that recognized for the purpose of the Federal Income Tax.

h. Bad debts, in a reasonable amount, may be allowed in the year ascertained worthless, and charged off, or, at the discretion of the Secretary-Treasurer (if the reserve method is used), a reasonable addition to the reserve may be claimed, but in no event shall the amount allowed, exceed the amount recognized as a deduction for the purpose of the Federal Income Tax.

i. Taxes. Only taxes directly connected with the profits subject to the licensee fee may be claimed as a deduction. If for any reason the income from property is not subject to tax, then the tax on said property is not deductible. In any event, the following taxes may not be deducted:

- (1) The license fee under this Ordinance.
- (2) Any Federal, State or local taxes based upon income;
- (3) Gift, estate or inheritance taxes, and
- (4) Taxes for local benefits or improvements to property which tend to appreciate the value thereof.

j. Where business income includes gains or losses, from the disposition of capital assets, the amount of such gains or losses to be reported, shall be the amount recognized by the Federal authorities for income tax purposes, but without reference to the classifications, limitations and percentages contained in Section 117 of the Internal Revenue Code governing "long and short term capital losses."

k. If the licensee does business both within and without the City, only the amount of net profits applicable to the activities of the business in Louisville shall be subjected to the license fee. If the licensees' records do not disclose the actual net profits for the Louisville branch, office, store, or activity separately, then the basis of allocation shall be disclosed in the return. If such basis of allocation is not deemed correct, in view of all the known circumstances, the Secretary-Treasurer will make a re-allocation based upon gross receipts or any other basis or bases, which shall, under the circumstances of the case, more accurately reflect the net profits.

ARTICLE II — 6

Reconciliation with Federal Return

In a form satisfactory to the Secretary-Treasurer there shall be submitted with each return filed by a taxpayer subject to the Federal Income Tax, a reconciliation between the amount shown in the return filed with the Secretary-Treasurer and the business income reported to the Federal Government.

ARTICLE II — 7

Additional License Fees

In addition to the occupational license fee imposed by other sections of the ordinance, every person, corporation, association, etc., engaged in the business, occupation, calling, profession, or using, holding and exhibiting the following articles named in this Section shall pay an additional license fee for each calendar year herein set forth. (For full text see Section 9 of the Ordinance).

a. Amusement: Every person or corporation engaged in the business, as said term is defined under Section 2 of the ordinance, upholding, sponsoring or exhibiting any concert, lecture, exhibition, museum, show or performance of any kind whatsoever not held in a regularly licensed theater, amusement park or the Louisville War Memorial Auditorium, shall pay a license fee of \$100.00 for each week or fraction thereof.

b. Pool and Billiard Tables: Every person or corporation operating a pool or billiard table in the City shall pay an annual license fee of \$25.00 for each table.

c. Fortune Tellers: Any person engaging in the practice of being a medium, clairvoyant, soothsayer, fortune teller, palmist, phrenologist or spiritualist or like activity shall pay an annual license fee for the privilege of doing business in the City of \$1,500.00.

d. Itinerant Merchants: Every person or corporation who shall engage in, do, or transact any temporary or transient business in the City, for the sale of any goods, wares or merchandise, and who, for the purpose of carrying on such business, shall hire, lease, use, or occupy any building or structure, motor vehicle, tent, car, boat or public room or any part thereof, including rooms in hotels, lodging houses, or in any street, alley, or other public place, or elsewhere, for a period of less than one year for the exhibition of, or sale of, such goods, wares or merchandise, shall pay a license fee for the privilege of doing said business in the City of \$1,000.00.

e. Peddlers: Every person engaged in peddling any goods, wares, or merchandise of any kind in the City shall pay an annual license fee of \$10.00.

f. Taxicabs: Every motor vehicle used for the conveyance of persons from place to place, for hire, where a driver or chauffeur is furnished for the operation thereof, shall be deemed a taxicab within the purview of this ordinance. Before any such taxicab shall be operated in the City, the owner or operator thereof shall procure a license therefor from the Secretary-Treasurer and shall pay therefor a license fee for each such taxicab of \$25.00 per annum, payable in advance.

ARTICLE III — 1

Returns and Payment of Tax

a. On or before April 15, 1949, every person engaged in any business, profession or other activity, the net profits of which are subject to license fee imposed by this ordinance, shall make and file with the Secretary-Treasurer, a return on a form furnished by or obtainable from the Secretary-Treasurer. Thereafter, each

person whose earnings or net profits are subject to the license fee imposed by this Ordinance, shall, on or before April 15th of each year, make and file a return with the Secretary-Treasurer. In the return filed, there shall be set forth the aggregate amount of salaries, wages, bonuses, incentive payments, commissions, fees, and other compensation received or net profits earned (all as hereinbefore defined), by and during the preceding year within the City of Louisville and subject to the said license fee, together with such other pertinent information as the Secretary-Treasurer may require.

b. Where the entire earnings, for the year are paid by one and the same employer and the license fee has in each instance been withheld or deducted by the employer from the gross amount of compensation without adjustment for expenses, it shall not be necessary for such employee to file a return for the year unless required or requested to do so by the Secretary-Treasurer. In every case in which gross compensation is or has been adjusted for expenses, a return must be filed by the employee.

c. If the return is made for a fiscal year or for any period other than a calendar year, the said return shall be made within one-hundred-five (105) days from the end of the said fiscal year or other period.

d. The return shall also show the amount of the license fee imposed by the Ordinance on such earnings or net profits, or both. See Article IV — 5 as to fractional part of cent.

e. The person making the return shall, at the time of filing thereof, pay to the Secretary-Treasurer the amount of fee shown to be due by the return.

f. Where any portion of the license fee otherwise due shall have been deducted at the source and shall have been paid to the Secretary-Treasurer by the person making the said deduction, a credit equal to the amount so paid, shall be deducted from the amount shown to be due and only the balance, if any, shall be due and payable at the time of the filing of the said return.

g. If a licensee shall terminate his business or employment during the calendar or fiscal year, the proper return shall be filed and the tax paid within one-hundred-five (105) days after the termination of said business or employment.

h. Persons temporarily engaged in business, as defined herein, within the City, or temporarily performing services within the City, shall file a return and pay the license fee upon the completion of said business or employment.

ARTICLE III — 2

Repeal of Ordinance 187, Series 1940

A credit of 11/12ths of the amount paid for license issued under Ordinance 187, Series 1940 will be allowed and applied against the first return filed under this Ordinance.

ARTICLE IV — 1

Collection of License Fee at Source

a. It is the duty of each employer (as hereinbefore defined) who employs one or more persons on a salary, wage, commission or other compensation basis, to deduct monthly or more often, at the time of the payment of such compensation, the license fee on such salary, wage, bonus, incentive payment, commission or other compensation due by said employer to said employee. The license fee shall be deducted by the employer from all compensation paid to employees for activities in the City of Louisville. However, the mere fact that the license fee is not with-

held will not relieve the employee of the responsibility of filing a return and paying the fee on the compensation received. A non-resident employer, either maintaining in the City of Louisville an office, business address or, doing business therein, or is otherwise subject to service of legal process, is subject to the withholding provisions of this section.

b. Where an employee receives compensation for personal services rendered or performed partly within and partly outside the City of Louisville, the withholding agent shall deduct and withhold that portion of the compensation which is earned within the City in accordance with the following rules of apportionment:

1. If the licensee is a traveling salesman, agent or other employee, whose compensation on the basis of commissions depends directly on the volume of business transacted by him, the deducting and withholding shall attach to the portion of the entire compensation, which the volume of business transacted by the employee within the City of Louisville, bears to the volume of business transacted by him both within and outside of the City.

2. The deducting and withholding of personal service compensation of all other employees (including officers of corporations) shall attach to the portion of the personal service compensation of such employee, which the total number of working days employed within the City of Louisville, bears to the total number of working days employed within and outside the City.

3. If it is impossible to apportion the earnings as provided above because of the peculiar nature of the services of the employee, or of the unusual basis of compensation, apportionment shall be made in accordance with the facts and the fee deducted and withheld accordingly. With respect to each such employee (or group of employees similarly or identically circumstanced) the employer shall furnish the Secretary-Treasurer a detailed statement of facts.

4. The occasional entry into the City of Louisville of an employee, who performs the duties for which he is employed entirely outside the City, but enters the City for the purpose of reporting, receiving instructions, accounting, etc., incidental to his duties outside the City, shall not be deemed to take such employee out of the class of those rendering their services entirely outside the City.

c. An employer is required to withhold the license fee on the full amount of any advances made to an employee on account of commissions where in excess of commissions earned.

d. An employer required to withhold the license fee (on compensation paid to an employee) may, in determining the amount on which the fee is to be withheld:

1. Ignore any amount allowed and paid by the employer to the employee for expenses necessarily and actually incurred by the employee in the actual performance of his services, or

2. Deduct any amount necessarily incurred and expended by the employee in the actual performance of his services, for which expense he is not to be or has not been reimbursed by the employer; provided, that in either case, such expense must be recognized by the Federal and State authorities for payroll tax purposes and the Federal authorities for income tax purposes, and the employee shall furnish the employer, before said deduction is made, an itemized statement of the expenses claimed.

ARTICLE IV — 2

Returns of License Fee Withheld and Payment

a. The return and payment required to be made on account of deductions by employers from salaries, wages, and other compensation of employees shall be made quarterly for the quarterly periods ending March 31st, June 30th, September 30th

and December 31st of each year. The first quarterly return and payment required to be made on account of such deductions shall be made, filed and paid to the Commissioner on or before October 31st, 1948, for the quarter ending September 30th, 1948.

b. The employer (in addition to any return required to be filed with respect to his own earnings or net profits) shall, on or before the last day of the month next following each quarterly period, make a return (Form W-1) and pay to the Commissioner the full amount of the license fee so deducted or withheld with respect to compensation paid all of his employees subject to the license fee under the Ordinance. No part of such tax so withheld and so reported may be paid to the Secretary-Treasurer in installments.

c. The return (Form W-1) required to be filed under this article shall be made on a form furnished by or obtainable from the Secretary-Treasurer.

d. On or before the 31st day of January (unless written request for extension is made to and granted by the Secretary-Treasurer) following any calendar year in which such deductions have been made by any employer, such employer shall file with the Secretary-Treasurer, in the form prescribed by the Secretary-Treasurer, an information return for each employee from whom City of Louisville License Fee has been withheld, showing the name, address and Social Security number of the employee, the total amount of compensation paid during the year and the amount of City of Louisville License Fee withheld from such employee.

e. For the convenience of employers, the information return may be made in one of two ways at the election of each employer, as follows:

1. Those employers using Form W-2 furnished commercially, may submit a copy of such commercial Form W-2 providing such commercial Form W-2 meets the requirements of the Bureau of Internal Revenue with respect to the following, to-wit:

(a) The space immediately to the right of the space provided for insertion of Federal tax withheld (which in the commercial form is either blank or headed "F.O.A.B.") may be headed "State or City Tax Withheld" for the insertion of Louisville license fee withheld on all copies except the original and the triplicate, which space in the original and triplicate must be blacked out.

(b) On the copy for the City of Louisville, the name of the Bureau of Internal Revenue must not appear.

(c) In no case in this information to be furnished on Form W-2 supplied by the Bureau of Internal Revenue.

2. Furnish a list of all employees from whom the fee has been withheld, which list shall show the employee's full name, last known address, Social Security number, gross amount of compensation paid during the year and the amount of City of Louisville license fee withheld. Such list may be compiled on any mechanical equipment presently used by the employer, but provision must be made for spacing equal to at least three lines between each name. The employer's name must be indicated on each sheet, each sheet must be numbered, and the total number of sheets comprising the complete report indicated on the first page.

f. The gross compensation to be reported for each employee should be the full twelve calendar months of the year, except 1948, last six months, or such portion thereof as the employee reported on was employed.

g. In addition to such information returns, and at the time the same are filed such employer shall file with the Secretary-Treasurer, Louisville Form W-3, to enable the Secretary-Treasurer to reconcile the sum total of compensation paid and taxes withheld as disclosed by information return W-2 or list, and prior returns and remittances made pursuant to the ordinance.

h. For adjustments of errors in returns of tax withheld by employers see Article V — 5 of these Regulations.

ARTICLE IV — 3

Limitation on Credit for License Fee Paid at Source

The failure of any employer, either residing within or outside of the City, to collect the license fee and to make such return, shall not relieve the employee from the payment of such fee in compliance with these regulations respecting the making of returns and the payment of license fees.

ARTICLE IV — 4

Status and Liability of Employers

Every employer is deemed to be a Trustee of the City of Louisville in collecting and holding the license fee required under the Ordinance to be withheld, and the funds so collected by such withholding are deemed to be trust funds.

Every such employer required to deduct and withhold the license fee at the source is liable directly to the City for the payment of such fee whether actually collected by such employer or not.

ARTICLE IV — 5

Fractional Parts of Cent

In deducting and withholding the license fee at source and in the payment of any fee due under the Ordinance, a fractional part of a cent shall be disregarded unless it amounts to one-half cent or more, in which case it shall be increased to one cent.

ARTICLE V — 1

Duties of the Secretary-Treasurer

The Secretary-Treasurer is required:

- a. To collect and receive the license fee imposed under the ordinance;
- b. To keep an accurate record showing the amount received by him from each license payer and withholding employer and the date of said receipts.
- c. To adopt and promulgate, and to enforce, rules and regulations relating to any matter of things pertaining to the administration and enforcement of the provisions of the Ordinance, including provisions for the re-examination and correction of returns and payments.

ARTICLE V — 2

Regulations — Rulings

a. Under the powers given the Secretary-Treasurer, these Regulations are issued. Additional regulations and rulings will be issued from time to time as circumstances may demand.

b. These Regulations, together with all amendments and supplements thereto and all changes therein, will be on file with the Secretary-Treasurer of the Sinking Fund, City Hall Annex, Louisville, Ky.; and will be open to public inspection. Copies thereof will, so far as possible, be available to all license payers, employers and their representatives upon request.

c. Any license payer or employer desiring a specific ruling should submit all of the facts involved, in writing, together with a concise statement of the subject matter of the ruling sought, to the Secretary-Treasurer.

ARTICLE V — 3

Inquisitorial Powers of Secretary-Treasurer

a. The Secretary-Treasurer personally, or his agents or employees, is authorized and empowered to examine the books, papers and records of any employer, or supposed employer, or of any license payer, or supposed license payer, in order to verify the accuracy of any return made; or, if no return was made, to ascertain the license fee imposed by the Ordinance.

b. Every employer or supposed employer, and every license payer or supposed license payer, is required to furnish to the Secretary-Treasurer or his duly authorized agents and employees, the means, facilities and opportunity for such examinations, investigations and audits as are authorized in and by the Ordinance.

c. The Secretary-Treasurer is further authorized and empowered to examine under oath any person concerning any income which was or should have been returned for license fee and to this end the Secretary-Treasurer has the right and power to compel the production of books, papers and records and the attendance of all persons before him, whether as parties or witnesses, whom he believes to have knowledge of such income.

d. Refusal of any such examination by any employer or person subject to the license fee, or presumed to be such employer or person so subject, constitutes a misdemeanor punishable by fine or imprisonment, or both.

See Article VIII, Penalties.

ARTICLE V — 4

Records To Be Kept By Employers and License Payers

Employees and others subject to the license fee under the Ordinance are required to keep such records as will enable the filing of true and accurate returns, whether of fees withheld at source or of fees payable upon earnings or net profits, or both, and such records are to be preserved to enable the Secretary-Treasurer or any agent or employee of the Secretary-Treasurer to verify the correctness of the returns filed.

ARTICLE V — 5

Collection of Deficiencies . . . Allowance of Credit for Overpayment

a. If as a result of investigation conducted by the Secretary-Treasurer a return is found to be incorrect, the Secretary-Treasurer is authorized to assess and collect any underpayment of license fee withheld at source or any underpayment of license fee owing by any license payer, with respect to earnings or net profits, or both. If no return has been filed and a license fee is found to be owing, the fee actually owing may be assessed and collected with or without the formality of obtaining a delinquent return from the employer or taxpayer.

b. Should it be disclosed either as a result of an investigation by the Secretary-Treasurer or through the medium of the filing of a claim or petition for refund or credit, that an overpayment has been made, the Commissioner of the Sinking Fund will refund such overpayment.

c. The employer will in every instance be required to pay the full license fee which should have been withheld, even though he may fail to withhold from the employee. If too much has been withheld the excess shall be refunded by the employer to the employee. While the withholding agent (employer) will be expected to maintain complete records of such adjustments with the employees, any such adjustment made during any month will not need to be reflected in the withholding return or disclosed by schedules or statements thereto attached. However, where adjustments are made between employer and employee disclosure shall be made in a statement supporting the annual schedule or schedules filed pursuant to Article IV — 2 of these regulations.

d. In those cases in which too much has been withheld by an employer from an employee and remitted to the Secretary-Treasurer and there has been a termination of the employee-employer relationship, the license payer (employee) may obtain an adjustment by application to the Secretary-Treasurer.

ARTICLE V — 6

Penalty For Divulging Confidential Information

License fee returns, and all audits connected therewith, are confidential. Any information gained by the Secretary-Treasurer, by his agents or employees, or by any other official or agent of the City as a result of any returns, investigations, hearings, or verifications required or authorized by the Ordinance, shall be held confidential, except for official purposes and except in accordance with proper judicial order, or as otherwise provided by law. Violation of this provision in the Ordinance constitutes a misdemeanor, punishable by fine not exceeding \$100.00 or imprisonment for not more than ten (10) days, or both. Every such breach of confidence constitutes a separate offense.

ARTICLE VI

Interest and Penalties

All license fees imposed by the Ordinance remaining unpaid after they become due shall bear interest, in addition to the amount of the unpaid fee, at the rate of six per cent (6%) per annum, and the license payers upon whom said taxes are imposed shall be liable, in addition to the fee and interest, to a penalty of one-half of one per cent (.5%) of the amount of the unpaid fee for each month or fraction of a month of non-payment.

ARTICLE VII

Collection of Unpaid License Fees

a. All license fees by the Ordinance remaining unpaid when the same have become due, together with all interest and penalties thereon, become a debt due the City from the license payer, and are recoverable as other debts by suit instituted by the Director of Law.

b. Employers who or which, although obliged under the Ordinance to withhold and remit to the Secretary-Treasurer the license fees required to be withheld at the source, shall fail to so withhold and/or remit, become liable to the City in a civil action to enforce the payment of the debt created by such failure.

ARTICLE VIII

Violations — Penalties

a. Any person, firm or corporation who fails, neglects or refuses to make any return or declaration required by the Ordinance; and any license payer who refuses to pay the fee, interest or penalties imposed by the Ordinance, and any person who refuses to permit the Secretary-Treasurer or his duly authorized agent or employee to examine his books, records and papers, or who knowingly makes any incomplete, false or fraudulent return, or who attempts to do anything whatsoever to avoid the payment of the whole or part of the fee, is guilty of a misdemeanor, punishable by a fine not to exceed \$100 and/or imprisonment for, not to exceed thirty (30) days.

b. The failure of any employer or license payer to receive or procure returns, or other forms is not an excuse for failure to make any return, or to pay the license fee.

c. Agents and employes charged with the duty of inspection or auditing of records of employers and license payers will carry proper identification, which shall be subject to examination by any person whose records are sought to be examined.

d. The penalties provided in this section are in addition to and not exclusive of the penalties provided by all pertinent criminal statutes of the Commonwealth of Kentucky, and to the civil remedies provided in the Ordinance.

ARTICLE IX

Applicability

a. Ordinance 112, Series 1948, and its amendment, Ordinance 165, Series 1948, shall not apply to any person or property as to whom or which it is beyond the legal power of the Board of Aldermen to impose the license fee or duties therein provided for.

b. This ordinance does not repeal any of the following ordinances nor amendments thereto, to wit:

1. The ordinance approved December 19, 1928 providing for the regulation of taxicabs, carried in the 1935 Compilation of Ordinances as No. 198, as amended, and recorded in the 1943 Compilation, beginning at page 1087.

2. The ordinance approved March 1, 1939, providing for the licensing of carnivals, concessions and other amusements, being Ordinance No. 50, Series 1939, as amended, and recorded beginning at page 1092 of the 1943 Compilation.

3. The ordinance approved April 25, 1935, being Ordinance No. 86, Series 1935, as amended, providing for licensing of drive-it-yourself business, as amended by an ordinance approved July 2, 1936, which ordinance, as amended, is recorded beginning at page 1093 of the 1943 Compilation.

4. The ordinance approved May 11, 1922, providing for the licensing of trainers and jockeys carried in the 1935 Compilation as Ordinance No. 192, as amended, and recorded in the 1943 Compilation, beginning at page 1099.

5. The ordinance approved October 26, 1938, providing for the licensing of coin or token operated amusement machines, being Ordinance No. 434, Series of 1938, which ordinance, as amended, is recorded in the 1943 Compilation, beginning at page 1116.

6. The ordinance approved October 25, 1939, providing for the licensing of certain exhibitions and contests, being Ordinance No. 345, Series of 1939, which ordinance, as amended, is recorded in the 1943 Compilation, beginning at page 1121.

7. The ordinance approved July 10, 1935, as amended, providing for the licensing of trucks, trailers, and semi-trailers carried in the 1935 Compilation as Ordinance No. 201, and recorded in the 1943 Compilation, beginning at page 1122.

8. The expressed designation of ordinances above is not to the exclusion of all others and if and when any license fee is imposed by any of the foregoing ordinances, it is the express intention of the City to impose said license fee in addition to the fees imposed by this Ordinance.

c. The ordinance approved December 13, 1928, providing for the licensing of insurance companies, corporations, firms, individuals or associations, carried in the 1935 Compilation as Ordinance No. 191, which ordinance was amended July 15, 1942, by Ordinance No. 111, Series 1942, which ordinance as amended is recorded in the 1943 Compilation beginning at page 1099, is not repealed by this Ordinance and insurance companies, corporations, firms, individuals or associations who are licensed under said ordinance are not required to pay a license fee measured by net profits under the terms of this ordinance.

d. The ordinance No. 187, Series 1940, providing for certain licenses and fees therefor to be paid into the Sinking Fund shall remain in full force and effect until June 30, 1948, after which it shall no longer be operative.

ARTICLE X

Construction

With respect to construction, Ordinance 112, Series 1948 contains the following:

"SECTION 17. The provisions of this ordinance are severable. If any sentence, clause or section or part of this ordinance or the application thereof to any particular state of case is for any reason found to be unconstitutional, illegal, or invalid, such unconstitutionality, illegality or invalidity shall not affect or repeal any of the remaining provisions, sentences, clauses or sections or parts of this ordinance, it being the legislative intent of this body to ordain and enact each provision, section, paragraph, sentence and part hereof separately and independently of each other."

ORDINANCE No. 112, SERIES 1948

An Ordinance Providing for the Imposition and Payment into the Sinking Fund of the City of Louisville of License Fees for the Privilege of Engaging, in Louisville, in Occupations, Trades, Professions, Business and Other Activities Measured by the Amount of Salaries, Wages, Commissions, Net Profits and Other Compensation Earned After June 30, 1948, and Providing for the Imposition and Payment into Said Sinking Fund of License Fees for the Privilege of Engaging, in Louisville, in Occupations, Trades, Professions, Business and Other Activities Conducted by Non-residents in the City of Louisville Measured by the Amount of Salaries, Wages, Commissions, Net Profits and Other Compensation Earned After June 30, 1948, by Said Non-residents; Requiring the Filing of Returns and the Giving of Information by Employers and Those Subject to the Said License Fees; Imposing on Employers the Duty of Collecting License Fees at the Source; Exempting Certain Occupations, Activities and Business; Defining Terms; Providing for Regulations; Providing for the Administration, Enforcement and Collection of the Fees; Prescribing Penalties; and Repealing Certain Ordinances.

BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF LOUISVILLE:

SECTION 1. That after June 30, 1948, every person, association, corporation or other entity engaged in an occupation, trade, profession, or other activity in the City shall pay into the Sinking Fund of the City for the purposes set forth under Section 91.200 of the Kentucky Revised Statutes as amended by an Act of the General Assembly of 1948, an annual license fee for the privilege of engaging in said activities, which license fee shall be measured by one per centum of (a) all salaries, wages, commissions and other compensations earned by every person in the City for work done or services performed or rendered in the City; and (b) the net profits of all business, professions or other activities conducted in the City.

Where a person, association, corporation or other entity operates both within and without the City, said license fee shall be measured by such part of the net profits as is earned by such licensee as a result of work done or service performed or rendered or other activities conducted in the City. The portion of the net profits from activities conducted in the City shall be computed as follows:

(a) Multiply the entire net profit by a business allocation percentage to be determined by—

1. Ascertaining the percentage which the gross receipts of the licensee from sales or service rendered within the City bears to the total gross receipts from sales or service rendered wherever made.

2. Ascertaining the percentage which the total wages, salaries and other personal service compensation for the period covered by the report bears to the total wages, salaries and personal service compensation for services performed or rendered within the City for such period of all the licensee's employees within and without the City.

3. Adding together the percentages determined in accordance with sub-paragraphs 1 and 2 above, or such of the aforesaid percentages as shall be applicable to the particular licensee's business, and dividing the total so obtained by the number of percentages used in deriving said total.

(b) In cases where the salaries, wages, commissions and other compensations are earned as a result of work done or services performed both within and without the City, the license fee required under this ordinance shall be computed by obtaining the percentage which the compensation for work performed within the City bears to the total compensation earned as a result of work done or services performed both within and without the City.

(c) Provided, however, that in the event a just and equitable result cannot be obtained by the use of the percentages specified in sub-sections (a) and (b) of this Section, upon petition in writing by the licensee, a Review Board, consisting of the Director of Finance, the Secretary-Treasurer and the Director of Law, shall have the authority to substitute factors calculated to effect a fair and proper allocation.

SECTION 2. That the following words, when used in this ordinance, shall have the meaning ascribed to them in this section, except where the context clearly indicates or requires a different meaning:

“Commissioners” — Commissioners of the Sinking Fund of the City of Louisville.

“Secretary-Treasurer” — Secretary-Treasurer of the Commissioners of the Sinking Fund of the City of Louisville.

“City” — City of Louisville, Kentucky.

“Business” — An enterprise, activity, profession, or undertaking of any nature conducted for gain or profit, whether conducted by an individual, co-partnership, association, or any other entity, but shall not include the usual activities of boards of trade, chambers of commerce, trade associations or unions, (or other associations performing the services usually performed by trade associations or unions); Community Chest funds or foundations; corporations or associations organized and operated exclusively for religious, charitable, scientific, literary, educational or civic purposes, or for the prevention of cruelty to children or animals; or clubs or fraternal organizations operated exclusively for social, literary, educational, or fraternal purposes, where no part of the earnings or income or receipts for such units, groups, or association inures to the benefit of any private shareholder or individual.

“Association” — A partnership, limited partnership, or any other form of unincorporated enterprise, owned by two or more persons.

“Corporation” — A corporation or joint stock association organized under the laws of the United States, the State of Kentucky, or any other State, territory, or foreign country or dependency.

“Employer” — An individual, co-partnership, association, corporation, governmental body or unit or administration or agency, or any other entity, who or that employs one or more persons on a salary, wage, commission or other compensation basis, regardless of whether such employer is engaged in business as above defined, or is excluded by the terms of said definition.

“Director of Finance” — The Director of the Department of Public Finance of the City of Louisville.

“Sales” — Net sales of merchandise or of service, or of both, computed by whatever method of accounting is authorized for federal income tax purposes.

“Sales within the City” — Shall be deemed to include sales of merchandise or service delivered to a customer or performed for a customer within the City from the licensee's place of business located in the City.

“Net Profits” — The net income from the operation of a business, or enterprise, after provision for all costs and expenses incurred in the conduct thereof, shall be the same as reported for federal income tax purposes excluding items exempted under this ordinance but without deduction of taxes based on income.

“Non-resident” — An individual, co-partnership, fiduciary, or association or other entity domiciled outside the City.

“Person” — Every natural person, co-partnership, fiduciary, association or corporation. Whenever the term “person” is used in any clause prescribing and impos-

ing a penalty in the nature of a fine or imprisonment, the word, as applied to associations, shall mean the partners or members thereof and as applied to corporations, the officers and directors.

"Resident" — An individual, co-partnership, association, corporation, or other entity domiciled in the City.

"Licensee" — Any person required hereunder to file a return or to pay a license fee thereon under this Ordinance. The singular shall include the plural, and the masculine shall include the feminine and the neuter.

SECTION 3. Each employer within the City who employs one or more persons shall deduct monthly, or more often than monthly, at the time of the payment thereof, the license fee measured by the amount of salaries, wages, commissions, or other compensation, due by said employer to said employee and shall on or before the last day of the month next following said deduction, pay to the Secretary-Treasurer the amount of license fee so deducted. Said employer shall, annually during the month of January of each year, make a return to the Secretary-Treasurer, in which is set forth the names and residence of each employee of said employer during the preceding calendar year, giving the amount of salaries, wages, commissions or other compensation earned during such preceding year by each of such employees, together with such other pertinent information as the Secretary-Treasurer may require. Provided, however, that the failure or omission by any employer to deduct such license fee shall not relieve the employee from the payment of such license fee and compliance with such regulations with respect to making returns and payments thereof, as may be fixed in this ordinance or established by the Secretary-Treasurer.

SECTION 4. Each person subject to a license fee imposed by this ordinance shall, on or before the 15th day of the fourth month following the close of each year make and file with the Secretary-Treasurer a return, in duplicate, on a form furnished by or obtainable from the Secretary-Treasurer, setting forth the aggregate amount of salaries, wages, commissions and other compensation or net profits during the preceding year with such other pertinent information as the Secretary-Treasurer may require. Provided, however, that where the entire license due under this ordinance has been withheld under the provisions hereof, the Secretary-Treasurer may waive the filing of said return by such licensee. Provided further that where the fiscal year of the business, profession, or other activity differs from the calendar year and licensee files federal income tax return of such other fiscal period the license fee shall be measured by the net profits of the fiscal year and where the return is made for a fiscal year or any other period different from a calendar year, the said return shall be made on or before the 15th day of the fourth month following the end of the said fiscal year or other period. Such return shall also show the amount of the license fee imposed by this ordinance. Provided further that the first return under this ordinance shall be required to show only compensation and net profits earned from the effective date of this ordinance to the close of the calendar or fiscal periods.

The person making the said return shall, at the time of the filing thereof, pay to the Secretary-Treasurer the amount of license fees shown as due thereon; provided, however, that where any portion of the license fee so due shall have been deducted at the source, credit for such amount shall be deducted from the amount shown to be due and only the balance, if any, shall be due and payable at the time of the filing of said return, as hereinabove provided; and provided further it shall be the duty of each employer who has deducted the license fee from the wages, salaries, commissions, or other compensation referred to in Section 3 above, to furnish said employee a statement upon a form furnished or obtainable from the Secretary-Treasurer showing the amount of salary earned and license fee deducted and paid by said employer during the preceding calendar year, on or before February 15th of each year.

If, at any time, actual experience has demonstrated that over-payment has been made, such over-payment shall be deemed to have been made under duress.

The Secretary-Treasurer shall have the authority to extend the filing of said return in his discretion. Such extension shall be upon the written request of the licensee. Provided, however, that any balance unpaid when payment is due under the terms of this ordinance shall bear interest at the rate of six per cent per annum until paid.

Every person conducting a business as defined in this ordinance shall obtain a license from the Secretary-Treasurer, before the commencement of such business, the fee for which shall be \$10.00. Said fee shall be credited upon the payment of the license fee as provided in this ordinance. Provided, however, that where such person has heretofore obtained a license from the Secretary-Treasurer for the conduct of such business, the provisions of this paragraph shall not apply.

SECTION 5. It shall be the duty of the Secretary-Treasurer to collect and receive the license fees imposed by this ordinance and to keep records showing the amount received by him from each licensee and employer and the date of such receipt.

SECTION 6. The Secretary-Treasurer is hereby charged with the enforcement of the provisions of this ordinance, and is hereby empowered to prescribe, adopt, promulgate and enforce rules and regulations relating to any matter or thing pertaining to the administration and enforcement of the provisions of this ordinance, including but not limited to provisions for the re-examination and correction of returns as to which an over-payment or under-payment is claimed or found to have been made and the rules and regulations promulgated by him shall be binding upon the licensees and the employers.

SECTION 7. The Secretary-Treasurer or any agent or employee designated in writing by him is hereby authorized to examine the books, papers and records of any employer or supposed employer or of any licensee or supposed licensee in order to determine the accuracy of any return made, or if no return was made, to ascertain the amount of license fee imposed by the terms of this ordinance. Each such employer or supposed employer or licensee or supposed licensee is hereby directed and required to give to the Secretary-Treasurer or his duly authorized agent or employee the means, facilities, and opportunity for such examination and investigation as are hereby authorized. The Secretary-Treasurer is hereby authorized to examine any person under oath concerning any wages, salaries, commissions or other compensation or net profits which were or should have been returned and to this end he may compel the production of books, papers, records, and the attendance of all persons before him, whether as parties or witnesses, whom he believes to have knowledge of such wages, salaries, commissions or other compensation or net profits, to the extent that any officer empowered to administer oaths in this Commonwealth is permitted to cause such coercion.

SECTION 8. It is not the intention of the City or this ordinance to impose and require an occupational license fee prohibited by law.

SECTION 9. In addition to the occupational license fee imposed by other sections of this ordinance, every person, corporation, association, etc., engaged in the business, occupation, calling, profession, or using, holding and exhibiting articles named in this Section shall pay into the Sinking Fund of the City of Louisville the additional license fees for each calendar year herein set forth.

(a) Amusement: Every person or corporation engaged in the business, as said term is defined under Section 2 of this ordinance, upholding, sponsoring or exhibiting any concert, lecture, exhibition, museum, show or performance of any kind whatsoever not held in a regularly licensed theater, amusement park or the Louisville War Memorial Auditorium, shall pay a license fee of \$100.00 for each week or fraction thereof.

(b) Pool and Billiard Tables: Every person or corporaiton operating a pool or billiard table in the City shall pay an annual license fee of \$25.00 for each table.

(c) Fortune Tellers: Any person engaging in the practice of being a medium, clairvoyant, soothsayer, fortune teller, palmist, phrenologist or spiritualist or like activity shall pay an annual license fee for the privilege of doing business in the City of \$1500.00.

No license shall be issued by the Commissioners under the provisions of this Section except upon a certification of the Director of Safety certifying that such person has appeared at Police Headquarters, been photographed, had his or her finger prints taken, and has given such general description of himself or herself as may be required by the Director of Safety.

Nothing contained in this Section shall be construed to apply to persons pretending to tell fortunes in a regularly licensed theater or as a part of any play, exhibition, fair or amateur show presented or offered by any religious, charitable or benevolent institution.

(d) Itinerant Merchants: Every person or corporation who shall engage in, do, or transact any temporary or transient business in the City, for the sale of any goods, wares or merchandise, and who, for the purpose of carrying on such business, shall hire, lease, use, or occupy any building or structure, motor vehicle, tent, car, boat or public room or any part thereof, including rooms in hotels, lodging houses, or in any street, alley, or other public place, or elsewhere, for a period of less than one year for the exhibition of, or sale of, such goods, wares or merchandise, shall pay a license fee for the privilege of doing said business in the City of \$1,000.00.

Every such person or corporation who has not been licensed for at least one year to sell or offer for sale any goods, wares or merchandise within the City, shall file with the Secretary-Treasurer an affidavit from the owner of the building, structure, etc., to be used by such applicant, showing for what period of time the property to be used by such applicant has been hired or leased by him, and no license shall be issued until such affidavit is filed, provided, however, the Secretary-Treasurer may issue a regular merchant's license to any such applicant upon the giving of a bond or security (in lieu of the aforementioned affidavit) in such amount as will in the opinion of the Secretary-Treasurer equal the amount of license fee required by this ordinance for a period of one year. Such bond shall provide that such amount shall be paid into the Sinking Fund in the event and at any time during the year that the Secretary-Treasurer shall receive sufficient evidence showing that it was applicant's intention to engage in or transact a transient business in the City.

No person shall be exempt from the payment of the license imposed by this Section by reason of a temporary association with any local merchant, dealer, or trader, or by reason of conducting such temporary or transient business in connection with or as a part of the business in the name of any local merchant, dealer or trader.

(e) Peddlers: Every person engaged in peddling any goods, wares, or merchandise of any kind in the City shall pay an annual license fee of \$10.00. No peddler's license shall give authority for more than one natural person to peddle under it, nor shall any person to whom a license is granted sell by agents or clerks or in any other way than by himself in person and each agent or clerk shall procure a separate license. Every peddler, while engaged in his business, shall carry his license and exhibit the same whenever required to do so by any police officer of the City or any license inspector.

Every peddler, while engaging in peddling, shall wear his badge upon his person in a conspicuous place in such manner that it may always be seen. Said

badges shall be of metal, numbered and furnished by the Secretary-Treasurer.

(f) Taxicabs: Every motor vehicle used for the conveyance of persons from place to place, for hire, where a driver or chauffeur is furnished for the operation thereof, shall be deemed a taxicab within the purview of this ordinance. Before any such taxicab shall be operated in the City, the owner or operator thereof shall procure a license therefor from the Secretary-Treasurer of the Sinking Fund and shall pay therefor a license fee for each such taxicab of \$25.00 per annum, payable in advance, provided, however, that if a license be issued hereunder on or after July 1st of any calendar year, one-half of the annual license fee shall be paid therefor. Each such license shall be issued to expire on the last day of each year. The Secretary-Treasurer of the Sinking Fund shall furnish a suitable emblem evidencing the payment of such license and it shall be the duty of the owner or operator of such taxicab to display the emblem in the lower right hand corner of the windshield of each such taxicab. No license for the operation of such a taxicab shall be issued by the Secretary-Treasurer of the Sinking Fund until the provisions of an ordinance approved December 19, 1928, and now recorded in the 1943 Compilation of General Ordinances, beginning at page 1087, shall have been complied with.

SECTION 10. Any licensee under the terms of Ordinance No. 187, Series 1940, approved April 24, 1940, as amended, who, because of the enactment of this ordinance requiring license fees based on a different schedule, and because of the repeal of Ordinance No. 187, Series 1940, as amended by the terms of this ordinance, is or will be prevented from getting the use of said license for the term for which it was issued under said Ordinance No. 187, may apply in writing on suitable forms furnished by the Secretary-Treasurer for an off-set or credit of that portion of the annual license fee paid which is applicable proportionately to the unexpired portion of such license fee, who may thereupon credit or off-set against the amount due under this ordinance the amount of money representative of the unexpired portion of such license fee. However, nothing in this Section is intended to relieve any licensee of any fee or portion of a fee which may have accrued under said Ordinance No. 187, Series 1940, before its repeal by the terms of this ordinance.

SECTION 11. Any information gained by the Secretary-Treasurer or any other official or agent or employee of the City as a result of any returns, investigations, hearings or verifications required or authorized by this ordinance, shall be confidential, except for official purposes and except in accordance with proper judicial order, or as otherwise provided by law, and any person or agent divulging such information shall, upon conviction, be subject to a fine of not exceeding \$100.00 or imprisonment of not exceeding ten (10) days or both at the discretion of the court. Provided, however, the Secretary-Treasurer may disclose to the Commissioner of Revenue of the State of Kentucky or his duly authorized agent all such information and right to inspect any of the books and records of the Secretary-Treasurer if said Commissioner of Revenue of the State of Kentucky grants to the Secretary-Treasurer the reciprocal right to obtain information from the files and records of the Department of Revenue of the State of Kentucky and maintains the privileged character of the information so furnished to him.

SECTION 12. All license fees imposed by this ordinance remaining unpaid after they become due shall bear interest at the rate of six per centum per annum and the person from whom said license fees are due shall further be charged a penalty of one-half of one per centum of the amount of the unpaid license fee for each month or fraction of a month said license fees remain unpaid. Any person or employer who fails or refuses to withhold monthly the license fee measured by a per centum of salaries, wages, etc., or who fails to pay said money, after withholding the same, to the Secretary-Treasurer at the time it is due shall, under the terms of Section 3 above, become liable for the amount due to the Secretary-Treasurer for said amount and the same shall bear interest at the rate

of six per centum per annum and a penalty of one-half of one per centum thereon for each month or fraction of a month said license fees remain unpaid.

SECTION 13. This ordinance does not repeal any of the following ordinances nor amendments thereto, to wit:

The ordinance approved December 19, 1928, providing for the regulation of taxicabs, carried in the 1935 Compilation of Ordinances as No. 198, as amended, and recorded in the 1943 Compilation, beginning at page 1087.

The ordinance approved March 1, 1939, providing for the licensing of carnivals, concessions and other amusements, being Ordinance No. 50, Series 1939, as amended, and recorded beginning at page 1092 of the 1943 Compilation.

The ordinance approved April 25, 1935, being Ordinance No. 86, Series 1935, as amended, providing for licensing of drive-it-yourself business, as amended by an ordinance approved July 2, 1936, which ordinance, as amended, is recorded beginning at page 1093 of the 1943 Compilation.

The ordinance approved May 11, 1922, providing for the licensing of trainers and jockeys carried in the 1935 Compilation as Ordinance No. 192, as amended, and recorded in the 1943 Compilation, beginning at page 1099.

The ordinance approved October 26, 1938, providing for the licensing of coin or token operated amusement machines, being Ordinance No. 434, Series of 1938, which ordinance, as amended, is recorded in the 1943 Compilation, beginning at page 1116.

The ordinance approved October 25, 1939, providing for the licensing of certain exhibitions and contests, being Ordinance No. 345, Series of 1939, which ordinance, as amended, is recorded in the 1943 Compilation, beginning at page 1121.

The ordinance approved July 10, 1935, as amended, providing for the licensing of trucks, trailers, and semi-trailers carried in the 1935 Compilation as Ordinance No. 201, and recorded in the 1943 Compilation, beginning at page 1122.

The expressed designation of ordinance above is not to the exclusion of all others and if and when any license fee is imposed by any of the foregoing ordinances, it is the express intention of the City to impose said license fee in addition to the fees imposed by this Ordinance.

SECTION 14. The ordinance approved December 13, 1928, providing for the licensing of insurance companies, corporations, firms, individuals or associations, carried in the 1935 Compilation as Ordinance No. 191, which ordinance was amended July 15, 1942, by Ordinance No. 111, Series 1942, which ordinance as amended is recorded in the 1943 Compilation beginning at page 1099, is not repealed by this ordinance and insurance companies corporations, firms, individuals or associations who are licensed under said ordinance are not required to pay a license fee measured by net profits under the terms of this ordinance.

SECTION 15. The ordinance No. 187, Series 1940, providing for certain licenses and fees therefor to be paid into the Sinking Fund shall remain in full force and effect until June 30, 1948, after which it shall no longer be operative.

SECTION 16. Any person or corporation who shall fail, neglect or refuse to make any return required by this ordinance or any licensee who shall fail, neglect or refuse to pay the license fees, or any employer who shall fail to withhold said license fees or to pay over to the City penalties or interest imposed by this ordinance, or any person who shall refuse to permit the Secretary-Treasurer or any agent or employee designated by him, in writing, to examine his books, records and papers, or who shall knowingly make any incomplete, false or fraudulent return, or who shall attempt to do anything what ever to avoid the full disclosure of the amount of earnings or profits in order to avoid the payment of the whole or any part of the license fee shall, upon conviction, be subject to a fine

or penalty of \$100.00 and costs for each offense or imprisonment of not more than thirty (30) days.

SECTION 17. The provisions of this ordinance are severable. If any sentence, clause or section or part of this ordinance or the application thereof to any particular state of case is for any reason found to be unconstitutional, illegal, or invalid, such unconstitutionality, illegality or invalidity shall not affect or repeal any of the remaining provisions, sentences, clauses or sections or parts of this ordinance, it being the legislative intent of this body to ordain and enact each provision, section, paragraph, sentence and part hereof separately and independently of each other.

SECTION 18. Because of the great costs of administration and difficulty of collection involved, the following occupation is exempt from the terms of this ordinance and no license is required: Domestic servants employed in private homes.

SECTION 19. This ordinance shall become operative on and after July 1, 1948, and shall remain in full force and effect until and including June 30, 1950, after which no license fees will be required under its terms, provided, however, nothing in this section is intended to relieve any licensee of any fee or portion of a fee which may have accrued prior to July 1, 1950.

C.B.A.

P.B.A.

APPROVED_____

MAYOR

ORDINANCE No. 165, SERIES 1948

An Ordinance Amending the Ordinance Providing for the Imposition and Payment of License Fees for the Privilege of Engaging in Occupations, Trades, Professions, Business, and Other Activities.

BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF LOUISVILLE:

SECTION 1. Subsection (a) 2, Section 1 of Ordinance No. 112, Series 1948 concerning the imposition and payment of license fees is amended, and as so amended shall read:

"2. Ascertaining the percentage which the wages, salaries and other personal service compensation for the period covered by the report for services performed or rendered within the City bears to the total wages, salaries and personal service compensation for such period of all the licensee's employees within and without the City."

SECTION 2. Section 3 of said ordinance is amended and as so amended shall read:

"SECTION 3. Each employer within the City who employs one or more persons shall deduct monthly, or more often than monthly, at the time of the payment thereof, the license fee measured by the amount of salaries, wages, commissions, or other compensation, due by said employer to said employee. The payment required to be made on account of deductions by employers shall be made quarterly, for the quarterly periods ending March 31st, June 30th, September 30th and December 31st of each year, on or before the last day of the month next following the quarter of said deduction to the Secretary-Treasurer. Said employer shall, annually during the month of January of each year, make a return to the Secretary-Treasurer, in which is set forth the names and residence of each employee of said employer during the preceding calendar year, giving the amount of salaries, wages, commissions or other compensation earned during such preceding year by each of such

employees, together with such other pertinent information as the Secretary-Treasurer may require. Provided, however, that the failure or omission by any employer to deduct such license fee shall not relieve the employee from the payment of such license fee and compliance with such regulations with respect to making returns and payments thereof, as may be fixed in this ordinance or established by the Secretary-Treasurer."

SECTION 3. Subsection (f), Section 9 of said ordinance is amended and as so amended shall read:

"(f) Taxicabs: Every motor vehicle used for the conveyance of persons from place to place, for hire, where a driver or chauffeur is furnished for the operation thereof, shall be deemed a taxicab within the purview of this ordinance. Before any such taxicab shall be operated in the City, the owner or operator thereof shall procure a license therefor from the Secretary-Treasurer of the Sinking Fund and shall pay therefor a license fee for each such taxicab of \$25.00 per annum, payable in advance, provided, however, that if a license be issued hereunder on or after November 1st of any license year, one-half of the annual license fee shall be paid therefor. Each such license shall be issued to expire on the first day of May each year. The Secretary-Treasurer of the Sinking Fund shall furnish a suitable emblem evidencing the payment of such license and it shall be the duty of the owner or operator of such taxicab to display the emblem in the lower right hand corner of the windshield of each such taxicab. No license for the operation of such a taxicab shall be issued by the Secretary-Treasurer of the Sinking Fund until the provisions of an ordinance approved December 19, 1928, and now recorded in the 1943 Compilation of General Ordinances, beginning at page 1087, shall have been compiled with."

SECTION 4. Section 10 of said ordinance is amended and as so amended shall read as follows:

"SECTION 10. Any licensee under the terms of Ordinance No. 187, Series 1940, approved April 24, 1940, as amended, who, because of the enactment of this ordinance requiring license fees based on a different schedule, and because of the repeal of Ordinance No. 187, Series 1940, as amended by the terms of this ordinance, is or will be prevented from getting the use of said license for the term for which it was issued under said Ordinance No. 187, may apply for an off-set or credit of that portion of the annual license fee paid which is applicable proportionately to the unexpired portion of such license fee. The Secretary-Treasurer shall thereupon credit or off-set against the amount due under this ordinance the amount of money representative of the unexpired portion of such license fee. However, nothing in this Section is intended to relieve any licensee of any fee or portion of a fee which may have accrued under said Ordinance No. 187, Series 1940, before its repeal by the terms of this ordinance."

SECTION 5. This ordinance takes effect upon its passage and approval.

_____ C.B.A. _____	_____ P.B.A. _____
APPROVED _____	_____ MAYOR _____

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